

MONTANA LEGISLATIVE HISTORY

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Chapter 287 1995

Bill H 249 S _____ Original bill & history ____C

H. Committee on Highways & Trans. S. Committee on Local Gov't

Hearing Date(s) 2-13 ____C Hearing Date(s) 3-9 ____C

____C ____C

____C ____C

____C ____C

Date Out ____C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____

Report _____

HB 248 INTRODUCED BY BERGSAGEL, ET AL.
 GENERALLY REVISE LAWS PERTAINING TO DRIVER LICENSING AND
 EXAMINATION
 BY REQUEST OF THE DEPARTMENT OF JUSTICE

1/17	INTRODUCED		
1/17	FIRST READING		
1/17	REFERRED TO HIGHWAYS & TRANSPORTATION		
1/18	FISCAL NOTE REQUESTED		
1/20	HEARING		
1/24	FISCAL NOTE RECEIVED		
1/25	FISCAL NOTE PRINTED		
2/06	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/07	2ND READING PASSED	94	5
2/08	3RD READING PASSED	95	4
	TRANSMITTED TO SENATE		
2/20	FIRST READING		
2/20	REFERRED TO HIGHWAYS & TRANSPORTATION		
3/07	HEARING		
3/16	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/23	2ND READING CONCURRED	50	0
3/24	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE WITH AMENDMENTS		
3/31	2ND READING AMENDMENTS CONCURRED	97	0
4/03	3RD READING AMENDMENTS CONCURRED	96	3
4/05	SIGNED BY SPEAKER		
4/06	SIGNED BY PRESIDENT		
4/07	TRANSMITTED TO GOVERNOR		
4/12	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 364		
	EFFECTIVE DATE: 04/12/95—SECTIONS 4 & 8		
	EFFECTIVE DATE: 10/01/95—SECTIONS 1-3 & 5-7		

HB 249 INTRODUCED BY MARSHALL
 GENERALLY REVISE LAWS RELATING TO LOCAL GOVERNMENT
 REGULATION OF TRAFFIC

1/17	INTRODUCED		
1/17	FIRST READING		
1/17	REFERRED TO LOCAL GOVERNMENT		
2/07	HEARING		
2/07	REFERRED TO HIGHWAYS & TRANSPORTATION		
2/13	HEARING		
2/16	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/18	2ND READING PASSED	88	11
2/20	3RD READING PASSED	90	9
	TRANSMITTED TO SENATE		
2/21	FIRST READING		
2/21	REFERRED TO LOCAL GOVERNMENT		
3/09	HEARING		
3/18	COMMITTEE REPORT—BILL CONCURRED		
3/25	2ND READING CONCURRED	45	3
3/27	3RD READING CONCURRED	44	5
	RETURNED TO HOUSE		
3/28	SIGNED BY SPEAKER		
3/28	SIGNED BY PRESIDENT		
3/29	TRANSMITTED TO GOVERNOR		

3/30 SIGNED BY GOVERNOR
 CHAPTER NUMBER 287
 EFFECTIVE DATE: 10/01/95

HB 250 INTRODUCED BY MCCULLOCH, ET AL.
 PROVIDE FOR GARNISHMENT AND ATTACHMENT OF PROPERTY OF
 REQUIRING COMMUNITY SERVICE FOR PERSONS WHO FAIL TO PAY
 FINES FOR MINOR TRAFFIC OFFENSES

1/17	INTRODUCED		
1/17	FIRST READING		
1/17	REFERRED TO JUDICIARY		
1/18	FISCAL NOTE REQUESTED		
1/23	FISCAL NOTE RECEIVED		
1/23	FISCAL NOTE PRINTED		
1/30	HEARING		
1/31	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/01	2ND READING PASSED	91	5
2/02	3RD READING PASSED	89	5
	TRANSMITTED TO SENATE		
2/03	FIRST READING		
2/03	REFERRED TO JUDICIARY		
3/02	HEARING		
3/03	COMMITTEE REPORT—BILL CONCURRED		
3/04	2ND READING CONCURRED	43	0
3/06	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE		
3/07	SIGNED BY SPEAKER		
3/09	SIGNED BY PRESIDENT		
3/09	TRANSMITTED TO GOVERNOR		
3/13	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 134		
	EFFECTIVE DATE: 10/01/95		

HB 251 INTRODUCED BY SQUIRES, ET AL.
 REQUIRE SELLER OF A BUSINESS THAT EMPLOYS 300 OR MORE
 EMPLOYEES WHO TRANSFERS OWNERSHIP OF THE BUSINESS OR
 WHO PERMANENTLY CLOSES AND SELLS THE BUSINESS RESULTING
 IN THE UNEMPLOYMENT OF 20 PERCENT OR MORE OF THE EXISTING
 WORKFORCE TO PAY AN EMPLOYEE RETRAINING AND COMMUNITY
 REINVESTMENT TAX EQUAL TO 8 PERCENT OF THE SALE PRICE OR THE
 APPRAISED VALUE TO FUND EMPLOYEE RETRAINING PROGRAMS AND
 COMMUNITY STABILITY AND DEVELOPMENT PROJECTS IN IMPACTED
 COMMUNITIES

1/18	INTRODUCED		
1/18	FIRST READING		
1/18	REFERRED TO TAXATION		
1/19	FISCAL NOTE REQUESTED		
1/24	FISCAL NOTE RECEIVED		
1/24	FISCAL NOTE PRINTED		
1/31	HEARING		
1/31	TABLED IN COMMITTEE		
3/29	MISSED TRANSMITTAL DEADLINE FOR 71ST DAY DIED IN COMMITTEE		

House BILL NO. 249

INTRODUCED BY [Signature]

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO LOCAL GOVERNMENT REGULATION OF TRAFFIC; ALLOWING A CITY TO REGULATE ROLLERBLADING ON CITY STREETS; ALLOWING A LOCAL AUTHORITY TO REDUCE THE SPEED LIMIT NEAR A DAY-CARE CENTER OR A LONG-TERM CARE FACILITY; AND AMENDING SECTIONS 7-14-4102, 61-8-303, AND 61-8-310, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-14-4102, MCA, is amended to read:

"7-14-4102. Regulation of trafficways and public grounds. The city or town council ~~has power to~~ may:

- (1) regulate and prevent the use or obstruction of streets, sidewalks, and public grounds by signs, poles, wires, posting handbills or advertisements, or any obstruction;
- (2) regulate and prohibit traffic and sales upon the streets, sidewalks, and public grounds;
- (3) regulate or prohibit the fast driving of horses, animals, or vehicles within the city or town;
- (4) provide for and regulate street crossings, curbs, and gutters;
- (5) prevent horseracing or immoderate driving or riding in the streets of the city or town and regulate and provide for the hitching of all animals on the streets;
- (6) regulate or prohibit coasting, skating, sliding, rollerblading, or tobogganing on the streets or alleys or ~~the indulgence in~~ other amusements dangerous or annoying to the inhabitants or having a tendency to frighten animals."

Section 2. Section 61-8-303, MCA, is amended to read:

"61-8-303. Speed restrictions -- basic rule. (1) A person operating or driving a vehicle of any character on a public highway of this state shall drive it in a careful and prudent manner, and at a rate of speed no greater than is reasonable and proper under the conditions existing at the point of operation, taking into account the amount and character of traffic, condition of brakes, weight of vehicle, grade and

1 width of highway, condition of surface, and freedom of obstruction to view ahead, ~~and he~~. The person shall
2 drive ~~it~~ a vehicle so as not to unduly or unreasonably endanger the life, limb, property, or other rights of
3 a person entitled to the use of the street or highway.

4 (2) ~~Where~~ When no special hazard exists that requires lower speed for compliance with subsection
5 (1) of this section, the speed of a vehicle not in excess of the limits specified in this section or established
6 as authorized in 61-8-309, ~~61-8-310~~, through 61-8-311, and 61-8-313 is lawful, but a speed in excess of
7 those limits is unlawful:

8 (a) 25 miles per hour in an urban district;

9 (b) 35 miles per hour on a highway under construction or repair or on a highway being surveyed;

10 (c) 55 miles per hour in other locations during the nighttime, except that the nighttime speed limit
11 on completed sections of interstate highways is 65 miles per hour.

12 (3) "Daytime" means from one-half hour before sunrise to one-half hour after sunset. "Nighttime"
13 means at any other hour.

14 (4) The speed limits set forth in this section may be altered by the highway commission or a local
15 authority as authorized in 61-8-309, 61-8-310, and 61-8-313.

16 (5) The driver of a vehicle shall, consistent with subsection (1), drive at an appropriate reduced
17 speed when approaching and crossing an intersection or railway grade crossing, when approaching and
18 going around a curve, when approaching a hill crest, when traveling upon a narrow or winding roadway,
19 and when a special hazard exists with respect to pedestrians or other traffic or by reason of weather or
20 highway condition."

21
22 **Section 3.** Section 61-8-310, MCA, is amended to read:

23 **"61-8-310. When local authorities may and shall alter limits.** (1) If a local authority in its jurisdiction
24 determines on the basis of an engineering and traffic investigation that the speed permitted under 61-8-303
25 and 61-8-309 through 61-8-313 is greater or less than is reasonable and safe under the conditions found
26 to exist upon a highway or part of a highway, the local authority may set a reasonable and safe limit that:

27 (a) decreases the limit at an intersection;

28 (b) increases the limit within an urban district, but not to more than 55 miles per hour during the
29 nighttime;

30 (c) decreases the limit outside an urban district, but not to less than 15 miles per hour; or

(d) decreases the limit in an area near a school, a senior citizen center, as defined in 23-5-112, a day-care center, as defined in 52-2-703, a long-term care facility, as defined in 37-9-101, or a designated crosswalk, as crosswalk is defined in 61-1-209, that is close to a school, or a senior citizen center, a day-care center, or a long-term care facility to not less than ~~80%, rounded down to the nearest whole number evenly divisible by 5 but not less than 25~~ 15 miles an hour, of the speed limit that would be set on the basis of an engineering and traffic investigation.

(2) A board of county commissioners may set limits, as provided in subsection (1)(c), without an engineering and traffic investigation on a county road, as defined in 60-1-103.

(3) A local authority in its jurisdiction may determine the proper speed for all arterial streets and shall set a reasonable and safe limit on arterial streets that may be greater or less than the speed permitted under 61-8-303 for an urban district.

(4) An altered limit established as authorized under this section is effective at all times or at other times determined by the authority when appropriate signs giving notice of the altered limit are erected upon the highway.

(5) Except as provided in subsection (1)(d), the commission has exclusive jurisdiction to set special speed limits on all federal-aid highways or extensions of federal-aid highways in all municipalities or urban areas. The commission shall set these limits in accordance with 61-8-309."

-END-

Closing by Sponsor:

REP. REAM closed on the bill. He said the issue is a serious problem and presents costs to the state.

HEARING ON HB 249Opening Statement by Sponsor:

REP. MARSHALL, HD 28, Bozeman, presented HB 249. He explained the bill was an attempt to change speed zones around day care centers.

Proponents' Testimony:

Tim Reardon, Chief Legal Counsel, Department of Transportation, testified in support of the bill. He presented some amendments. EXHIBITS 5 and 6 The amendments provide control by local authorities over setting speed zones in certain areas within their city on state highways.

{Tape: 2; Side: A; Approx. Counter: 854; Comments: None.}

It also satisfies the requirements of the federal government in the Manual of Uniform Traffic Control Devices which is federally accepted and adopted in state law. It has also been adopted by the cities since it allows or requires those speeds be done in accordance with traffic engineering studies. He pointed out that the city is free to do their own traffic and engineering studies provided they are done by a qualified firm. These could be done faster than the department could do them and could be implemented quicker. The bill would allow the city at their discretion to change speeds in certain areas depending on conditions.

{Tape: 2; Side: B; Approx. Counter: 0; Comments: None.}

Jim Wysocki, City of Bozeman, testified in support of the bill. He submitted letters from Ned S. Levine, principal of the Willison Science and Technology School and Mary Hensleigh, former crosswalk guard and president of the Willison School's parent group in Bozeman. He also presented a letter from Jim Bruggeman, principal of Irving School regarding dangerous street crossings. EXHIBITS 7, 8, 9 He noted that asking the department to do a study takes a considerable amount of time and that it is possible to do the study faster, using their same criteria though these are not available presently as an option.

Tom Barnard, Chief Engineer, Department of Transportation, supported the bill with the proposed amendments.

Opponents' Testimony: None

Questions From Committee Members and Responses:

REP. SOMERVILLE asked about rollerblading and skateboarding. Mr. Wysocki said there was a provision in the bill to avoid the collision problem. Skating is in the statute already.

{Tape: 2; Side: B; Approx. Counter: 103; Comments: None.}

REP. CLARK asked if skateboarding should be delineated, if there was a problem with skateboarding as opposed to rollerblades. Mr. Wysocki said it was up to the committee to alter the language.

REP. MCGEE asked if the words "activities or amusements" would cover everything. Mr. Reardon said they could, however, he noted it was a discretionary opportunity for local government.

REP. MCGEE asked if the amendments were not included what would the department's stand be on the bill. Mr. Barnard replied that if the amendments were not included, there would be some very serious problems with the bill. He pointed out that if arbitrary speed limits were established with no background behind it then it was likely not the safest speed zone. Mandates are set by federal law requiring studies.

REP. MCGEE pointed out the similarities to three other bills regarding speed bills.

REP. GALVIN asked if the word "close" could be included on line 17, page 2, and could the road be closed to these activities such as rollerblading, etc.

{Tape: 2; Side: B; Approx. Counter: 260; Comments: None.}

Mr. Wysocki replied that in dealing with a street where funding was coming from the highway department or federal government, then they would be hard pressed to do that. However, a local street could be closed if there was no jurisdiction by other entities.

REP. TROPILA asked about skateboarding and sledding on sidewalks, which are also public property. Could these be included in the bill? Mr. Wysocki replied that it could be included on line 22. Mr. Reardon responded that the language is broad enough to regulate any amusements.

REP. BARNETT asked Mr. Reardon if he would furnish the committee with all the regulations that absolutely prohibit the city from coming in and controlling the speed within their city limits. Mr. Reardon replied that he would.

REP. SOMERVILLE asked about updating the language in the statute, such a horseracing, if the department would have a problem with that.

{Tape: 2; Side: B; Approx. Counter: 226; Comments: None.}

Mr. Reardon replied that they would not have a problem.

CHAIRMAN ANDERSON asked whether the Highway Commission was being substituted with a local authority to use the traffic investigation to determine the speed. Mr. Barnard replied that either the Highway Commission or the local authorities could make those modifications under those provisions of law. Mr. Reardon said the intent was to allow local authority to do that.

{Tape: 2; Side: B; Approx. Counter: 516; Comments: None.}

He pointed out a problem was when a traffic and engineering study provided a speed higher than the speed that the local residents wanted. The study is still needed, according to the manual, it could be shown that speeds could be lowered. Mr. Barnard referred to a handout on HB 254 regarding the Uniform Property Control Devices where there are five things that must be looked at.

Connie Erickson clarified that the statute--61-8-310--which is the section that talks about local authorities may and shall alter limits. Local authorities can set or alter limits based on engineering studies only in certain instances. There are four instances listed. They cannot just do the studies and then set the limits for whatever they want on any road.

Closing by Sponsor:

REP. MARSHALL closed on the bill.

EXECUTIVE ACTION ON HB 364

Motion: REP. MCKEE MOVED THAT HB 364 DO PASS.

Discussion: REP. SOMERVILLE discussed the difficulty of reaching people at the current phone numbers.

REP. SCHWINDEN spoke against the bill. He said it was not so much in the interest of serving local shippers rather than serving certain shippers and in the interest of closing these agencies. The bill appears to keep the railroad from going through the hearings process. He recommended the committee do not pass the bill.

REP. BRAINARD said he would like to amend the bill. On page 2, he moved to amend on line 13, strike 50% and change it to 30% and on line 14 change 50% to 30%.

REP. SCHWINDEN discussed the hearing process and that in one instance the percentage should not be on it at all. He recommended letting the public service commission do their job

Amendments to House Bill 249 (Introduced Copy)

1. Page 3, line 1.
Strike: "a"
2. Page 2, line 2.
Strike: "day-care center, as defined in 52-2-703, a long-term care facility, as defined in 37-9-101,"
3. Page 3, line 3.
Strike: "or"
Insert: "or"
4. Page 3, line 3.
Strike: "a"
5. Page 3, line 4.
Strike: "day-care center, or a long-term care facility"
6. Page 3, line 5.
Following: "25"
Insert: "80%, rounded down to the nearest whole number evenly divisible by 5 of the limit that would be set on the basis of the engineering and traffic investigation required in (1), but not less than"
7. Page 3.
Following: line 6.
Insert: "(2) If warranted by the engineering and traffic investigation, a local authority may adopt variable speed limits to adapt traffic conditions by time of day provided such variations comply with 61-8-206."
Renumber: subsequent subsections

HOUSE BILL NO. 249

INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO LOCAL GOVERNMENT REGULATION OF TRAFFIC; ALLOWING A CITY TO REGULATE ROLLERBLADING ON CITY STREETS; ALLOWING A LOCAL AUTHORITY TO REDUCE THE SPEED LIMIT NEAR A DAY-CARE CENTER OR A LONG-TERM CARE FACILITY; AND AMENDING SECTIONS 7-14-4102, 61-8-303, AND 61-8-310, MCA."

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(2) regulate and prohibit traffic and sales upon the streets, sidewalks, and public grounds;

(3) regulate or prohibit the fast driving of horses, animals, or vehicles within the city or town;

(4) provide for and regulate street crossings, curbs, and gutters;

(5) prevent horseracing or immoderate driving or riding in the streets of the city or town and regulate and provide for the hitching of all animals on the streets;

(6) regulate or prohibit coasting, skating, sliding, rollerblading, or tobogganing on the streets or alleys or other amusements dangerous or annoying to the inhabitants or having a tendency to frighten animals."

Section 2. Section 61-8-303, MCA, is amended to read:

"61-8-303. Speed restrictions – basic rule. (1) A person operating or driving a vehicle of any character on a public highway of this state shall drive it in a careful and prudent manner, and at a rate of speed no greater than is reasonable and proper under the conditions existing at the point of operation, taking into account the amount and character of traffic, condition of brakes, weight of vehicle, grade and width of highway, condition of surface, and freedom of obstruction to view ahead. The person shall drive a vehicle so as not to unduly or unreasonably endanger the life, limb, property, or other rights of a person entitled to the use of the street or highway.

(2) When no special hazard exists that requires lower speed for compliance with subsection (1) of this section, the speed of a vehicle not in excess of the limits specified in this section or established as authorized in 61-8-309 through 61-8-311 and 61-8-313 is lawful, but a speed in excess of those limits is unlawful:

- (a) 25 miles per hour in an urban district;
- (b) 35 miles per hour on a highway under construction or repair or on a highway being surveyed;
- (c) 55 miles per hour in other locations during the nighttime, except that the nighttime speed limit on completed sections of interstate highways is 65 miles per hour.

(3) "Daytime" means from one-half hour before sunrise to one-half hour after sunset. "Nighttime" means at any other hour.

(4) The speed limits set forth in this section may be altered by the highway commission or a local authority as authorized in 61-8-309, 61-8-310, and 61-8-313.

(5) The driver of a vehicle shall, consistent with subsection (1), drive at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon a narrow or winding roadway, and when a special hazard exists with respect to pedestrians or other traffic or by reason of weather or highway condition."

Section 3. Section 61-8-310, MCA, is amended to read:

"61-8-310. When local authorities may and shall alter limits. (1) If a local authority in its jurisdiction determines on the basis of an engineering and traffic investigation that the speed permitted under 61-8-303 and 61-8-309 through 61-8-313 is greater or less than is reasonable and safe under the conditions found to exist upon a highway or part of a highway, the local authority may set a reasonable and safe limit that:

- (a) decreases the limit at an intersection;
- (b) increases the limit within an urban district, but not to more than 55 miles per hour during the nighttime;
- (c) decreases the limit outside an urban district, but not to less than 15 miles per hour; or
- (d) decreases the limit in an area near a school, a senior citizen center, as defined in 23-5-112, a designated crosswalk, as crosswalk is defined in 61-1-209, that is close to a school, or a senior citizen center to not less than 80%, rounded down to the nearest whole number evenly divisible by 5 of the limit that would be set on the basis of the engineering and traffic investigation required in (1), but not less than 15 miles per hour.

EXHIBIT 6
DATE 2-13-95
HB 249

HB0249.01

1 (2) If warranted by the engineering and traffic investigation, a local authority may adopt variable speed
2 limits to adapt traffic conditions by time of day provided such variations comply with 61-8-206.

3 (3) A board of county commissioners may set limits, as provided in subsection (1)(c), without an
4 engineering and traffic investigation on a county road, as defined in 60-1-103.

5 (4) A local authority in its jurisdiction may determine the proper speed for all arterial streets and shall set
6 a reasonable and safe limit on arterial streets that may be greater or less than the speed permitted under 61-8-303
7 for an urban district.

8 (5) An altered limit established as authorized under this section is effective at all times or at other times
9 determined by the authority when appropriate signs giving notice of the altered limit are erected upon the highway.

10 (6) Except as provided in subsection (1)(d), the commission has exclusive jurisdiction to set special speed
11 limits on all federal-aid highways or extensions of federal-aid highways in all municipalities or urban areas. The
12 commission shall set these limits in accordance with 61-8-309."

13 -END-

MEMO

To: Rep. Bill Boharski, House Local Gov. Comm.
From: Mary Hensleigh
Date: Monday, January 23, 1995
Subject: House Bill 249

As a parent, former crosswalk guard and President of the Willison Science & Technology School Parent group in Bozeman, Montana I would like to urge you to pass House Bill 249. For the safety of all the children and adults that have to cross Babcock Street it would make crossing this dangerous street much safer if the speed limit was 15mph. Having a traffic light to stop the traffic completely would also be to the benefit of all that have to cross this street. The injury or death of a child due to excessive speed on this street is inevitable unless we slow the traffic down. Please vote YES. I sincerely appreciate all the time and effort your job requires. Thank you.



Bozeman Public Schools
04 W. Main
Bozeman, Montana 59715

EXHIBIT 8

DATE 2/13/95

HB 249

Ned Levine

Principal

Willson Science and Technology School
Phone: (406) 585-1533 Fax: (406) 585-1504
E-mail: WILEVI@HAWKS.BPS.MONTANA.EDU

Committee Chair Representative Bill Boharski
House Local Government Committee
State Capitol Building
Helena, Montana

The Honorable Bill Boharski and Committee Members:

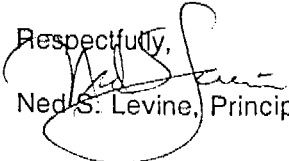
I am writing this letter in strong support for HB 249. It will allow us to establish a 15 mph School Zone on an arterial street. The Bozeman Public Schools have lived through past tragedies, including a pedestrian death, and many near misses within our school crosswalks. I believe that future tragedy could be averted by a more sensible traffic speed. We have worked with all government agencies we could in the past three years, both state and local, to correct an inherently dangerous situation.

The Willson Science and Technology School is bounded by two major arterial thoroughfares in Bozeman: on one side we have Main Street and on the other Babcock. Both streets have manned pedestrian crosswalks for student safety. Across Babcock Street from our building is the Bridger Alternative High School. We also have a great deal of pedestrian traffic to our residential neighborhood, between school sites for transportation needs, and to the Willson auditorium for public events.

While Main Street traffic is controlled by stop signals, our attempts to change traffic flow on Babcock have been met with repeated frustrations. Babcock Street, as a major arterial, supports an extremely heavy, one way traffic pattern. Cars traveling at 35 mph cannot stop/ do not stop in a timely manner for pedestrians, even when the crossing guard is present.

We have convinced our local planning and traffic boards that this change is necessary. Please allow them the authority to implement this safeguard for our children.

Respectfully,


Ned S. Levine, Principal



Bozeman Public Schools
611 S. 8th
Bozeman, Montana 59715

EXHIBIT 9

DATE 2/13/95

HB. 249

Jim Bruggeman

Principal
Irving School

Phone: (406) 585-1600

Mr. Bill Boharski, Chair
House Local Government Committee
State Capitol, Helena MT 5960

Dear Representative Boharski:

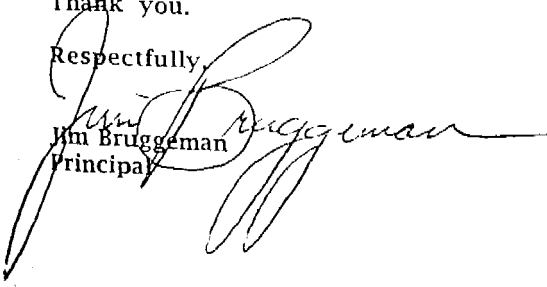
I am the principal of Irving Elementary School (Bozeman School District #7). On their route to and from school, our students have to transverse three street crossings, which, even though they are supervised by a school crossing guard, are incredibly dangerous. Currently, the crossing closest to our school is posted with a 15 mile-per-hour speed limit and patrolled by the Bozeman Police Department to the best of their ability (our police department has many guarded crossings to watch). But the speed limit does allow our police through ticketing to establish a zone of protection around our school which they cannot at the other crossings. Consequently, this is our safest crossing. I shudder to think what will happen if the 15 mile-per-hour limit were abolished. I fear that lifting the current limits will result in dead and injured school children.

Particularly in the winter on icy streets, 25 or 35 mile-per-hour limits simply do not allow enough time for drivers to brake for students and guards. This has been the case at our crossings which do not have a 15 mile-per-hour posted speed limit. We have recorded in the past three years at least twenty-five incidents in which automobiles have nearly struck a child or a crossing guard at the crossings *without* a 15 mile-per-hour limit. On two occasions when I have substituted for a crossing guard, I have nearly been hit by speeding or otherwise careless drivers. It is only a matter of time before someone is killed or seriously hurt at these crossings.

I urge you to do whatever you can to assure that our city officials have the power to impose 15 mile-per-hour limits around schools and guarded crosswalks. Please put a higher value of the lives of our children than on the convenience of motorists.

Thank you.

Respectfully,


Jim Bruggeman
Principal

MINUTES

MONTANA SENATE 54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By CHAIRMAN TOM BECK, on March 9, 1995, at 3:00 p.m.

ROLL CALL

Members Present:

Sen. Thomas A. "Tom" Beck, Chairman (R)
Sen. Ethel M. Harding, Vice Chairman (R)
Sen. Sharon Estrada (R)
Sen. Delwyn Gage (R)
Sen. Don Hargrove (R)
Sen. Dorothy Eck (D)
Sen. John "J.D." Lynch (D)
Sen. Jeff Weldon (D)

Members Excused: none

Members Absent: Sen. Jeff Weldon

Staff Present: Susan Fox, Legislative Council
Elaine Johnston, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 249, HB 220, HB 197, HB 308
Executive Action:

{Tape: 1; Side: A; Approx. Counter: ; Comments: .}

HEARING ON HB 249

Opening Statement by Sponsor:

REP. ROD MARSHALL, HD 28, Bozeman, presented HB 249 which was an act to generally revise the laws related to local government regulation of traffic and allowed the city to regulate skateboarding and rollerblading on city streets. He said they needed to allow local authorities to adopt variable speed limits and adopt traffic conditions. They tried to run this through at the local level but found it needed to be done at the state legislature. This bill gave local governments the chance to regulate some of the speeds in their city.

Proponents' Testimony:

Jim Wysocki, Bozeman City Manager, passed out a letter to the committee (EXHIBIT 1). He added that a fourth reason for HB 249 and that was rollerblading and skateboarding. He said that these activities have become startling as they were appearing on the roads and cars were not necessarily expecting to see them. The other three reason he gave were local authorization to do a study that would meet the traffic requirements that the state already conducts would have allowed them to move more quickly. The second was to have a speed limit lower than 25 miles per hour. According to the law, they could not lower the limit below the 25 mph and they wanted to go down to 15 mph in some areas. The third change was to do a time of day speed change. That would have allowed during school hours to have a 15mph limit and after hours the limit could go to 25mph or what ever would be warranted. He asked that they have the ability to do the studies the state conducts under their own authorization.

Robert White, Bozeman Chamber of Commerce, favored HB 249 because Bozeman's high altitude allowed for snow to remain on the streets and during that time it was very dangerous to unload kids at the schools. He said there were people passing the unloading buses at 35mph and they would like to have the ability to reduce those limits for the safety of the kids. He urged the committee's support.

Gary Gilmore, Operations Engineer, Department of Transportation, stated that the Department had worked with REP. MARSHALL and the Bozeman delegation along with the federal highway administration to come up with legislation that would benefit all parties and they support HB 249.

Tim Reardon, Chief Legal Counsel, Department of Transportation, stated that this was the third or fourth speed zone bill brought before the legislature and HB 249 accomplished a great deal of what was intended by all of the bills. At REP. MARSHALL'S suggestion, before the bill was heard in the House, the Department sat down with the representatives from the City of Bozeman and invited the federal highway administration to participate in the discussions. They wanted to understand the various positions and why the requirements were in the law the way they were and the limitations on local governments. In setting speed limits in the past, the key in terms of the federal highway administration was the traffic and engineering studies had to be the basis on which the speeds were set. The way HB 249 was written, the traffic and engineering investigations were assured and the ability of local governments to reduce limits below 25mph in school zones was allowed. He also pointed out that those speed limits the local studies warrant, use variable speed limits. He said the addition of the rollerblading was added in the House and the Department had no objections to the listings.

Opponents' Testimony: none

Questions From Committee Members and Responses:

SEN. DON HARGROVE asked regarding the bill allowing a 5mph speed limit in a small town around Townsend, if there was a difference between that bill and HB 249 as that bill even though it had passed may not have gone through because of some effect on federal highway funds? Mr. Reardon responded that the amended version of that bill the Department did not object and the Governor had signed that bill. The impact of HB 249 on that would be that if the engineering and traffic studies warrant and it was in compliance with the federal requirements there would be no threat.

CHAIRMAN TOM BECK asked if it gives authority only on local streets and not federal or state highways? Mr. Wysocki said they started out with the intention they would not include state or federal highways but that had been amended out so it would be possible. Mr. Gilmore responded that there was an exception on the last page of the bill which gives the highway commission exclusive jurisdiction.

SEN. DELWYN GAGE asked what kind of enforcement would be given to the speed zones? Mr. Wysocki said that the enforcement would be done initially before the school year would begin to get people in tune to the change. Normal enforcement would be done but it would be watched more carefully during the last month of school.

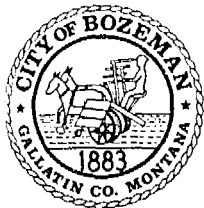
CHAIRMAN BECK asked if the engineering and traffic investigation would be done by the state or would a private entity be able to do the investigation? Mr. Gilmore said in the past the state had generally done the investigations but they do allow local governments to hire an acceptable outside entity. The Department would present the cities with a list of consultant in the state they know to be qualified. He said that in the past they had also participated and paid for the studies.

SEN. ETHEL HARDING asked if the skateboards and rollerblades needed to be regulated? Mr. White said that they do because problems had increased and there were even problems on state highways.

SEN. HARDING asked how the regulation would be done? REP. MARSHALL said it would need regulation on some streets and some streets would be opened up on some occasions and each city would have to deal with their own problems.

Closing by Sponsor:

REP. MARSHALL closed.



THE CITY OF BOZEMAN

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SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 1

DATE 3-9-95

BILL NO. HB 249

March 8, 1995

Senator Tom Beck, Chair
Local Government Committee
Montana State Legislature
Capitol Station
Helena, Montana 59624

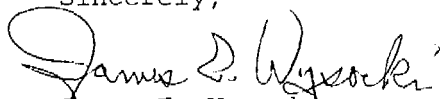
Dear Committee Members,

H.B. 249 gives Local Governments the authorization to conduct traffic studies in compliance with the State's requirements. This is important because currently the Department cannot always respond in a timely manner to these request for review. The City of Bozeman has waited as much as 6 to 12 months for such a survey.

If warranted, the bill would allow a local authority (Commission, etc) to place a speed at 15 miles per hour (currently minimum is 25mph), near schools and senior citizen centers. Further, H.B. 249 will allow for "TIME OF DAY SPEED CHANGES" around schools and senior centers. So, when children are crossing to and from school, for example, the signs would read 15mph and in off school hours it could be increased to the current level, to adapt to conditions.

Thank you in advance for your concurrence in H.B. 249!

Sincerely,


James E. Wysocki
City Manager

Section 2. Section 20-6-104, MCA, is amended to read:

"20-6-104. Moratorium on creation of new district — exception. (1) ~~Following July 1, 1993, a~~ A school district may not initiate the creation of a new elementary district under the provisions of 20-6-216 and 20-6-217 or initiate the creation of a new high school district under the provisions of 20-6-303 and 20-6-325.

(2) This section does not apply to ~~a petition to create a new elementary or high school district that was filed prior to July 1, 1993 a district that results from the procedure for the dissolution of a K-12 school district pursuant to [section 1].~~

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 20, chapter 6, part 7, and the provisions of Title 20 apply to [section 1].

Section 4. Effective date. [This act] is effective on passage and approval.

Approved March 30, 1995

CHAPTER NO. 286

[HB 246]

AN ACT REVISING CERTAIN PROVISIONS RELATING TO COMPETITIVE BIDDING FOR CONTRACTS FOR WORK ON ROADS AND HIGHWAYS; AND AMENDING SECTION 60-2-112, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 60-2-112, MCA, is amended to read:

"60-2-112. Competitive bidding. (1) ~~When Except as provided in subsections (2) through (4), when~~ the estimated cost of any work exceeds \$10,000 \$50,000, the commission shall let the contract by competitive bidding. Award ~~shall must~~ be made upon ~~such the~~ notice and ~~upon such~~ terms as ~~that~~ the commission ~~may prescribe prescribes~~ by its rules. However, except when prohibited by federal law, the commission shall make awards and contracts in accordance with 18-1-102 and 18-1-112.

(2) The commission may let a contract by means other than competitive bidding if it determines that special circumstances so require. The commission ~~must shall~~ specify the special circumstances in writing.

(3) The commission may enter into contracts with units of local government for the construction of projects without competitive bidding if it finds that the work can be accomplished at lower total costs, including total ~~cost~~ costs of labor, materials, supplies, equipment usage, engineering, supervision, clerical and accounting services, administrative costs, and reasonable estimates of other costs attributable to the project.

(4) ~~The commission may delegate to the department the authority to enter, without competitive bidding, agreed-upon price contracts for projects costing \$50,000 or less."~~

Approved March 30, 1995

CHAPTER NO. 287

[HB 249]

AN ACT GENERALLY REVISING THE LAWS RELATING TO LOCAL GOVERNMENT REGULATION OF TRAFFIC; ALLOWING A CITY TO REGULATE SKATEBOARDING AND ROLLERBLADING ON CITY STREETS; ALLOWING A LOCAL AUTHORITY TO ADOPT VARIABLE SPEED LIMITS TO ADAPT TO TRAFFIC CONDITIONS; AND AMENDING SECTIONS 7-14-4102, 61-8-303, AND 61-8-310, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 7-14-4102, MCA, is amended to read:

"7-14-4102. Regulation of trafficways and public grounds. The city or town council ~~has power to may:~~

(1) regulate and prevent the use or obstruction of streets, sidewalks, and public grounds by signs, poles, wires, posting handbills or advertisements, or any obstruction;

(2) regulate and prohibit traffic and sales upon the streets, sidewalks, and public grounds;

(3) regulate or prohibit the fast driving of horses, animals, or vehicles within the city or town;

(4) provide for and regulate street crossings, curbs, and gutters;

(5) prevent horseracing or immoderate driving or riding in the streets of the city or town and regulate and provide for the hitching of all animals on the streets;

(6) regulate or prohibit coasting, skating, sliding, skateboarding, rollerblading, or tobogganing on the streets or alleys ~~or the indulgence in other~~ amusements dangerous or annoying to the inhabitants or having a tendency to frighten animals."

Section 2. Section 61-8-303, MCA, is amended to read:

"61-8-303. Speed restrictions — basic rule. (1) A person operating or driving a vehicle of any character on a public highway of this state shall drive it in a careful and prudent manner, and at a rate of speed no greater than is reasonable and proper under the conditions existing at the point of operation, taking into account the amount and character of traffic, condition of brakes, weight of vehicle, grade and width of highway, condition of surface, and freedom of obstruction to view ahead, ~~and he~~. ~~The person shall drive it a vehicle~~ so as not to unduly or unreasonably endanger the life, limb, property, or other rights of a person entitled to the use of the street or highway.

(2) ~~Where~~ When no special hazard exists that requires lower speed for compliance with subsection (1) of this section, the speed of a vehicle not in excess

of the limits specified in this section or established as authorized in 61-8-309, ~~61-8-310~~, through 61-8-311, and 61-8-313 is lawful, but a speed in excess of those limits is unlawful:

- (a) 25 miles per hour in an urban district;
- (b) 35 miles per hour on a highway under construction or repair or on a highway being surveyed;
- (c) 55 miles per hour in other locations during the nighttime, except that the nighttime speed limit on completed sections of interstate highways is 65 miles per hour.
- (3) "Daytime" means from one-half hour before sunrise to one-half hour after sunset. "Nighttime" means at any other hour.

(4) The speed limits set forth in this section may be altered by the highway commission or a local authority as authorized in 61-8-309, 61-8-310, and 61-8-313.

(5) The driver of a vehicle shall, consistent with subsection (1), drive at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon a narrow or winding roadway, and when a special hazard exists with respect to pedestrians or other traffic or by reason of weather or highway condition."

Section 3. Section 61-8-310, MCA, is amended to read:

"61-8-310. When local authorities may and shall alter limits. (1) If a local authority in its jurisdiction determines on the basis of an engineering and traffic investigation that the speed permitted under 61-8-303 and 61-8-309 through 61-8-313 is greater or less than is reasonable and safe under the conditions found to exist upon a highway or part of a highway, the local authority may set a reasonable and safe limit that:

- (a) decreases the limit at an intersection;
- (b) increases the limit within an urban district, but not to more than 55 miles per hour during the nighttime;
- (c) decreases the limit outside an urban district, but not to less than 15 miles per hour; or
- (d) decreases the limit in an area near a school, a senior citizen center, as defined in 23-5-112, or a designated crosswalk, as crosswalk is defined in 61-1-209, that is close to a school or a senior citizen center to not less than 80%, rounded down to the nearest whole number evenly divisible by 5 but not less than 25 80%, rounded down to the nearest whole number evenly divisible by 5, of the limit that would be set on the basis of an engineering and traffic investigation, but not less than 15 miles an hour, of the speed limit that would be set on the basis of an engineering and traffic investigation. If warranted by an engineering and traffic investigation, a local authority may adopt variable speed limits to adapt to traffic conditions by time of day, provided that the variable limits comply with the provisions of 61-8-206.

(2) A board of county commissioners may set limits, as provided in subsection (1)(c), without an engineering and traffic investigation on a county road, as defined in 60-1-103.

(3) A local authority in its jurisdiction may determine the proper speed for all arterial streets and shall set a reasonable and safe limit on arterial streets that may be greater or less than the speed permitted under 61-8-303 for an urban district.

(4) An altered limit established as authorized under this section is effective at all times or at other times determined by the authority when appropriate signs giving notice of the altered limit are erected upon the highway.

(5) Except as provided in subsection (1)(d), the commission has exclusive jurisdiction to set special speed limits on all federal-aid highways or extensions of federal-aid highways in all municipalities or urban areas. The commission shall set these limits in accordance with 61-8-309."

Approved March 30, 1995

CHAPTER NO. 288

[HB 289]

AN ACT IMPLEMENTING THE RECOMMENDATION OF THE GOVERNOR'S TASK FORCE TO RENEW MONTANA GOVERNMENT BY ELIMINATING THE 12 PERCENT A YEAR UTILITY RATE INCREASE LIMIT FOR MUNICIPAL UTILITIES; ELIMINATING THE REQUIREMENT FOR AN ANNUAL REPORT; AMENDING SECTION 69-7-101, MCA; AND REPEALING SECTIONS 69-7-102 AND 69-7-121, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 69-7-101, MCA, is amended to read:

"69-7-101. Municipal utilities — regulation by municipality — limitation. A municipality has the power and authority to regulate, establish, and change, as it considers proper, rates, charges, and classifications imposed for utility services to its inhabitants and other persons served by municipal utility systems. Rates, charges, and classifications ~~shall must~~ be reasonable and just and, ~~except as provided in 69-7-102, they may not be raised to yield more than a 12% increase in total annual revenues or, in the case of mandated federal and state capital improvements, the increase may not exceed amounts necessary to meet the requirements of bond indentures or loan agreements required to finance the local government's share of the mandated improvements. Annual revenues must be computed on any consecutive 12-month period for purposes of this chapter."~~

Section 2. Repealer. Sections 69-7-102 and 69-7-121, MCA, are repealed.

Approved March 30, 1995